

**RECORD OF PROCEEDINGS
OF THE GOVERNING BODY
CITY OF GARDNER, KANSAS**

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July 6, 2020

The City Council of the City of Gardner, Kansas met in regular session on July 6, 2020, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with the Mayor Steve Shute presiding. Present were Councilmembers Todd Winters, Rich Melton, Mark Baldwin, Randy Gregorcyk and Tory Roberts. City staff present were City Administrator James Pruetting; Police Captain Jacob Hayes; Utilities Director Gonzalo Garcia; Public Works Director Michael Kramer; Finance Director Matthew Wolff; Parks and Recreation Director Jason Bruce; City Attorney Ryan Denk; and City Clerk Sharon Rose. Others present included those listed on the attached sign-in sheet and others who did not sign in.

CALL TO ORDER

There being a quorum of Councilmembers present, the meeting was called to order by Mayor Shute at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Mayor Shute led those present in the Pledge of Allegiance.

Mayor Shute addressed the mask mandate. He asked each councilmember to wear a mask, two declined. There will be no enforcement. Shute repeated that staff and council were asked to wear masks.

PRESENTATIONS

1. Presentation of the 2021-2022 Draft Budget

Finance Director Matt Wolff said the city has been using priority-based budgeting for several years. They are currently at Step 7 – monitoring results and adjusting as necessary. The presentation is broken into three components: revenue update, budget adjustments, and next steps. Wolff shared good news regarding the city's sales tax. The June distribution of sales tax includes city sales tax and Gardner's portion of the county sales tax. The city sales tax is up 5% on the year. Gardner is more insulated than other entities in the area. Gardner's portion of the county sales tax is down 2% on the year. The city is down 10% on the June distribution, but that was for April collections. This is not as bad as originally projected. The general fund revenue shortfall was predicted to be \$1.2 Million, but now that they have real data, it's at \$660,000. Although they aren't seeing as much a loss of revenue as other communities, there's still uncertainty going forward. The 10% loss in April still has an impact. As the pandemic continues, there may be more impacts.

Director Wolff shared that they were able to add 3% merit pool for 2021. Staff noted that neighboring jurisdictions are still including merit into their budgets and the city doesn't want to fall behind again. They are changing how they are transferring some water fund to the wastewater fund. Historically, they have had \$1 Million a year subsidy from the water fund to the wastewater fund. The rate study was trying to eliminate that subsidy. It can't be done all at once, but they are phasing it over time to cut it in half for the next four years, and phase out in 2025, with the increase in sewer rates. Staff revised the placeholder for the new wastewater treatment plant, from \$28 Million to \$20 Million. It's necessary to keep a healthy fund balance. They will mitigate the risk of overbuilding capacity and the plant will still be expandable to accommodate future growth. This is a placeholder, once they have cost estimates and a better idea of the plan, they will come back to council to review.

Director Wolff noted that they will need to amend the 2020 budget for the land bank. They created the land bank fund and transferred \$5,000 from the general fund earlier this year. This was not part of the approved 2020 budget submitted to the state. Staff will need to amend the budget so that if they have a project that uses the land bank this year, they will have budget authority to be able to use that money.

Director Wolff showed the impact of the adjustments for the general fund since adding merit back in. The mill levy will stay flat for the next three years. The projected year-end general fund balance has gone up since the last presentation. Last time, they projected 2022 with a 23% fund balance, and now it's up to 24%, closer to the target of 25%. Generally, 20-30% is solid, and they prefer it to be 25%.

Director Wolff said the next steps include direction from the governing body tonight, a budget hearing on August 3, then final budget adoption on August 17.

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Councilmember Gregorcyk noted that sales tax is up 5%, what does that equate to in dollars? How do they get the \$660,000 difference from \$1.2 Million? Wolff said the difference year-to-date in June of 2020 to June of 2019 is about \$60,000. Gregorcyk asked about the other \$600,000. Mayor Shute said that was county portion. They were expecting the county revenues to be considerably lower, over 20%. Wolff said the sales tax for the city is up about 2% if they combine both the city and county sales tax together. They had 2.9 Million across all funds last year in 2019, and it's approximately 2.97 Million now.

Councilmember Winters asked if they are expecting June and July to be similar collection. He assumes April is the worst month. Wolff confirmed April was one of the worst ones. He stated it will be the same. They had a partial month for March collections received in May and it was down 9% from the county. He anticipates the city's to be up a little more with the new Price Chopper. It's hard to say what the county is going to do, but they expect it to continue to be down 8-10%. Winters asked how much the 3% merit increase will be in dollars. Wolff said it will be \$270,000. There is a cumulative effect going over years. Winters asked if there was any thought on adding items back in, like police vehicles. Wolff discussed this with the City Administrator and the Police Chief. Overall, it was a greater concern to retain personnel over vehicles. They did not add the vehicles back in, but can reconvene after this year, see what the fund balance is, and add them in next year.

Mayor Shute asked that they move forward with what they have tonight, and then come back with additional line items to discuss at the next meeting. Wolff confirmed, stating there will be minor changes, but this significantly sets what the budget will be. Staff will publish the planned budget in the paper, setting the maximum it can be, and then move forward with a public hearing. Shute asked about the decrease on the wastewater treatment plant. He asked Utilities Director Garcia to go over what was changed in the plans to bring the number down. Garcia said the original estimates were for a 1.25 MGD facility. Now they are looking at what is the minimum they need to serve Grata and the additional annexations. It's close to 1 MGD, so that reduced the cost. GBA is working on a new estimate. Shute clarified that this is a modular build so it can be expanded. Garcia confirmed, saying it's the same concept as the Hillsdale plant. Councilmember Baldwin said if they are reducing capacity, how much more growth can they sustain without needing that capacity back that was originally projected? Garcia said the Grata sanitary sewer is being designed to handle a full build-out for the Prairie Trace development with just Grata, the sanitary sewer is being designed with a full buildout for prairie trace. They have until 2025 before they need to build a wastewater treatment facility. If they do the construction sooner, they will have more capacity for future developments. They will need to do something in 2025 or 2026. Shute said that's when they'll see the revenues from the wastewater rate increases. Garcia said GBA is doing these analyses and will have a better number in a month.

PUBLIC HEARING

PUBLIC COMMENTS

There were no public comments.

CONSENT AGENDA

1. Standing approval of the minutes as written for the regular meeting on June 15, 2020.
2. Standing approval of the minutes as written for the special meeting on June 19, 2020.
3. Standing approval of City expenditures prepared June 12, 2020 in the amount of \$559,187.35; and June 16, 2020 in the amount of \$102,079.66; and June 19, 2020 in the amount of \$1,396,412.82; and June 26, 2020 in the amount of \$256,936.19.
4. Consider authorizing the execution of an agreement with BHC Rhodes, Inc. to design the US-56, Sycamore Street to Moonlight Road improvements
5. Consider authorizing an agreement for 188th Street Benefit District Improvements
6. Consider authorizing the City Administrator to purchase two (2) 2020 Ram 1500 4X4 quad cab trucks from Landmark Dodge

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- 7. Consider authorizing the purchase of 800 tons of deicing salt from Independent Salt Co.**
- 8. Consider authorizing a Change Order with Amino Brothers Co., Inc. to construct Street, Street Lighting, and Waterline improvements for the Waverly Plaza Special Benefit District**
- 9. Consider authorizing a task order agreement for construction services for internal improvements in the City of Gardner**

Councilmember Winters made a motion to approve the Consent Agenda.

Councilmember Melton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

PLANNING & ZONING CONSENT AGENDA

COMMITTEE RECOMMENDATIONS

NEW BUSINESS

COUNCIL UPDATES

Police Captain Hayes provided statistics surrounding fireworks enforcement around the 4th of July. Councilmember Winters asked what kind of feedback they got when they gave warnings. Hayes said officers tracked anywhere they had contact with someone, whether it was a verbal or written warning. Officers could access a digital log in the field. They had one return address they went to during the time-period, and an arrest was made the second time, so there was no need for a citation, as it was an unrelated incident. Hayes said they got good compliance with using warnings as opposed to citations. Winters noted that was his question, how effective was it individually. There were 51 warnings, did that effectively mean 50 of them stopped shooting before or after they were supposed to. Hayes said that was the finding. He didn't receive any different feedback from citizens or officers. Councilmember Roberts asked about the mix of after-hours versus being in the street. Hayes said before the legal dates, they had a majority of the warning contacts. That was for discharge when it was not legal to discharge by city ordinance. There weren't many violations regarding after-hours or being in the street. The 4th is a heavy call load, so they had additional officers for the 1st through the 5th dedicated for that purpose. The department is overwhelmed, resource-wise, on the 3rd and 4th with the amount of calls. Councilmember Roberts said she heard a lot of fireworks after 11pm. Hayes did not break out whether those violations were after-hours or in the street during legal days, but will send it out to council tomorrow. Councilmember Gregorcyk asked about the additional officers. He assumes that was overtime, so there's a cost to that. Hayes confirmed. Gregorcyk also noted that Public Works would be sweeping the streets, and asked how much of the road they would do. Public Works Director Kramer said crews try to encourage citizens to clean up their own trash. Then they will follow with routine street sweeping, there's not a specific amount of cleaning up fireworks debris. Gregorcyk asked if there is a time provided to citizens who created the debris to clean up the debris, and after that time, the city cleans those streets. Kramer believes that would be a codes enforcement issue. Gregorcyk isn't alluding to fines, but there should be a period of time for citizens to get it cleaned up; those are city streets and need to be kept clean. Councilmember Baldwin said it sounds similar to the snow removal timeline. Kramer said in the past, they have had good compliance with residents cleaning up their cul-de-sacs when they are informed that it's their responsibility to clean the mess they made. Mayor Shute said the snow removal policy is 48-72 hours, and they could do the same with fireworks. Gregorcyk said they could talk to the wastewater staff regarding the debris that is carried downstream. There are chemicals in the fireworks that get into the water stream. Gregorcyk said they should evaluate the fireworks ordinance, look at the data and understand the costs and safety, and make sure they listen to the minority in addition to the majority. He would like to see it on the agenda in the coming months to not look at it from an emotional perspective, but to look at the data. Shute agreed.

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Director Garcia shared an update on the water watch adopted on June 19. The water demand over the past 7 days has decreased below the water watch level, partly due to weather, and partly due to water conservation. Staff can't measure water conservation currently, but with smart meters they will be able to see how much is conservation measures. There will be 2-4 weeks of hot weather, so Garcia recommends leaving the water watch in place until the trend remains on the down side. Mayor Shute said they can revisit the second meeting in July or first meeting in August. Garcia continued, stating that on December 3, 2019 council adopted the smart meter opt-out program that includes a digital and a medical opt-out. Currently, they have 9 requests for opt-out, of which 5 are digital and 4 are medical. In order to get a medical opt-out, they require a physician's verification statement. This statement is to be notarized. Most health care facilities don't have notaries. Shute asked if the notary requirement was in the project resolution. Garcia said it was part of the program. Shute asked if they can strike the requirement? Councilmember Baldwin asked if the medical opt-out could become digital. Garcia said medical opt-outs want no smart meters at all. City Administrator Pruetting suggested having the doctor fax the form from the doctor's office. They typically do that to verify a valid signature for prescriptions. Councilmember Winters also suggests using their letterhead. Councilmember Melton asked if they needed to revise the ordinance. Shute said it's in the policy and they can amend that policy with governing body action now. He then asked for consensus and all councilmembers agreed.

Mayor Shute congratulated Parks Director Jason Bruce on the fireworks presentation. Bruce said they had a good turnout for the social distancing drive in. Gardner Radio worked well, and people seemed to enjoy it. Bruce thanked the Fire District, Police Department, Public Works, Economic Development and other staff for their assistance. They hope to return to the full festival next year. He received good comments from the public. Bruce said after months of planning, they are rolling out baseball/softball program this week. It will be a short season through the first of August. Numbers are down, but they still had a good turnout. This year they tried a checkout system for equipment that worked well.

Mayor Shute asked Public Works Director Michael Kramer about the intersection of Santa Fe and Waverly. Kramer noted the intersection closed today, and is scheduled to reopen in 2 weeks. There are posted detours, and more information on the website. Kramer discussed that the large-item pick up event was canceled in the spring due to COVID. This project has been re-bid and staff will bring it back in the next council meeting. They have made changes to the program, looked at surrounding communities and talked with contractor about what would help them perform better. There will be a limit on number of items and types of items. They will not allow construction and demolition debris or commercial debris. It will be residential only, like furniture, old grills, basketball goals, swing sets, carpet rolls, things that aren't picked up by regular trash service. In order to reach budget numbers, they need to reduce the tonnage collected by 30%. There will be more information coming soon. Shute said the changes should help reduce the tonnage, as some had taken advantage in years past. Councilmember Baldwin clarified that construction debris was excluded in the past. Shute said it was not explicitly said. Councilmember Melton said there were certain things like washing machines and refrigerators that were excluded. Kramer said they will send out a postcard or mailer in advance so that residents are aware of the changes.

Mayor Shute noted that the Economic Development Director chair is empty. Director Larry Powell announced his retirement recently. Shute appreciated his effort to his work and helping to move the city forward over the last several years. Shute thanked Director Powell for his service to the community.

City Administrator Pruetting shared that he has a meeting scheduled next Monday with the Waverly Plaza group and hope to move the conversation forward. Regarding the Grata project, staff has been going back and forth with WaterOne on getting a plan together to acquire right-of-way (ROW). The county and Olathe had a plan from several years ago that would expand 175th Street. They are asking the city to acquire 200 feet of ROW instead of 120 feet. It would be an additional expense they are trying to work out. If they build in the ROW, and it's not big enough to expand the road, it would have to be moved. Pruetting will work with the City Attorney to determine how they move forward. Plaza South is moving ahead of schedule.

Councilmember Gregorcyk noted that sales tax revenue from fireworks is about 60 days out, correct? Finance Director Wolff confirmed. Gregorcyk asked City Administrator Pruetting about the status of the lake road from the

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last meeting? Pruetting said staff will do some minor maintenance. He said going back into the history, there was no council decision to stop doing that. The decision was made between the previous city administrator and Director Kramer to stop it. Gregorcyk asked if there will be a determination as to whose responsibility it will be. Pruetting said he and Kramer looked at the map, and the city owns other roads around the lake that are not in the city and there is no tax collection from it. They will take care of the area, which is the general common drive, and the homeowners can take care of the areas next to it. Gregorcyk noted the mayor's statement on masks, but asked why Melton and Baldwin won't wear facemasks, when it's gone to the county commission. Mayor Shute said it is a civil matter, not a criminal matter. The complaints would have to come from an individual with standing within this body. The county commissioners supported the governor's mandate. It was an executive order passed by the governor's office and then put to the counties. Both the District Attorney and the Attorney General put out opinions stating this is a civil issue. There is no way to enforce an issue like this other than using trespassing, but that's for private businesses. There is no trespassing on public property.

Councilmember Baldwin offered if anyone wants to talk with him about masks, they can reach out via email or phone.

Councilmember Melton echoed Baldwin's comment on the masks; everyone knows where he stands. Melton said he went to all the fireworks stands and talked with all the vendors. He stated he does not own or run a fireworks stand. He said every vendor was up on every day of sales. They had folks coming in from neighboring cities. Melton stressed the need to get the debris cleaned up. They allow fireworks, but residents need to do their part to keep their debris cleaned up. Melton estimated there was \$600,000 in sales. Most tents sold out or almost sold out. Melton said sales are for 7 days before the 4th, and he would like to revise the ordinance meeting the state's 9 days of sales. This would allow for tents to sell any overage on the 5th. Shute said there is a difference regarding days for shooting them at the state level that the city doesn't have. Melton said he was sharing what those folks were asking for. He said they can also look at associated issues Gregorcyk shared and have them in the ordinance. Councilmember Winters asked if it is always the 3rd-5th every year. Shute said yes, per the ordinance passed last year. Melton asked about the status of wastewater plant in Edgerton. Pruetting said he has reached out to Beth Linn, she was out of town, but said she would get with him and Don Roberts. He will follow up. Pruetting said they have talked with the county about 199th Street. They have also talked with the state about relevant issues with regard to the weigh station. Those conversations are going to be broader than just between Gardner and Edgerton

Councilmember Winters thanked Gardner PD and Fire Department for their extra work last week. They have to enforce difficult things to enforce. He would like continued discussion on ways to improve people following the rules, continue the dialog. Mayor Shute said he's all for looking at ways to improve. This year has been unique unlike other years with COVID madness. This provided an outlet. Melton said explosives are a cheap therapy. Shute noted that with personal freedom comes personal responsibility. Councilmember Baldwin said being cooped up, what does that have to do with following the rules? Shute said everyone wants to make themselves feel better about some things. Blowing things up can help, but not before discharge dates, or after-hours. Baldwin noted that the fireworks stands don't have large signs with the rules posted. He said they could make that a requirement. Baldwin said that on the 5th, after the fact, he would like to see the hours shortened to during daylight and possibly allow for nighttime discharge on the 2nd, shifting the hours. Councilmember Roberts wasn't involved in the fireworks discussion, but would welcome another discussion and revisit some items like the times.

EXECUTIVE SESSION

ADJOURNMENT

There being no further business to come before the Council, on a motion duly made by Councilmember Gregorcyk and seconded by Councilmember Melton the meeting adjourned at 7:50 p.m.

City Clerk